

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ELLIOTT EBERHARDT,
Petitioner,

v.

WARDEN MICHAEL WENEROWITZ,
et al.,
Respondents.

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CIVIL ACTION NO. 13-CV-1700

ORDER

AND NOW, this 14th day of January, 2022, in consideration of Petitioner Elliott Eberhardt’s Motion for Relief from Judgment Under Fed. R. Civ. P. 60(b) (ECF No. 44), it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to correct the entry on the docket at ECF No. 44 to identify the Motion as a “Motion for Relief from Judgment Under Fed. R. Civ. P. 60(b).”
2. The Motion is **DISMISSED** for lack of subject matter jurisdiction without prejudice to Eberhardt’s right to file with the United States Court of Appeals for the Third Circuit an application to file a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(3)(A).
3. A Certificate of Appealability is **DENIED** pursuant to 28 U.S.C. § 2253(c) because reasonable jurists would not debate the propriety of this Court’s procedural ruling with respect to these claims. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ Juan R. Sánchez
JUAN R. SÁNCHEZ, C.J.